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July 3, 2002

VIA FIRST CLASS MAIL

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OFFICE OF REGIONAL COUNSEL
EPA - REGION X

FILE COPY



Jennifer G. MacDonald, Esq.
Assistant Regional Counsel
Office of the Regional Counsel
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, WA 98101

Re: Lower Duwamish Superfund Site/Rhone Poulenc Site

Dear Ms. MacDonald:

This will respond to your letter to Mark Schneider dated June 13, 2002 regarding the ownership of the slip bed of Slip 6 and certain related issues which you raise.

With respect to Boeing's fee simple ownership interest, we refer you to the following Web site:

<http://www5.metrokc.gov/webmaps/parcelviewer/Viewer/KingCounty/viewer.asp?App=Parcels&size=large>

The parcel number for Slip 6 is 5624201032. With this information you should be able to readily find the answers to your questions regarding the state of the title of Slip 6.

As to your question about which particular activities require access from or notice to Boeing, all the activities you identify require access and notice. More specifically, you identify diving underwater (involving either sampling of water or sediment, or simply observations), placing temporary lines and floats, boating on the water, and walking on the mud flats on the Rhone-Poulenc side of the slip during low tide. As to the mud flats you refer to, these particular mudflats are a portion of the slip bed of Slip 6 which Boeing owns and thus access from and notice to Boeing is required. The sediment sampling you identify also falls within the category of property owned by Boeing, which therefore also requires access from and notice to Boeing. The

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other activities specified in your letter also require access from and notice to Boeing. In particular, while we recognize generally that the Duwamish Waterway is a navigable body of water, it is nonetheless accurate to state that slip bed ownership means that Boeing, at a minimum, has priority in Slip 6 regarding these other activities. Put another way, Slip 6 is an important aspect of Boeing's Duwamish area operations and a third person that may wish, for example, to place temporary lines and floats in Slip 6 to insure diver safety is not entitled to unilaterally choose to interfere or impede ongoing commerce connected with Boeing's business activities at that location. Additionally, in light of the need for increased security near our Facilities, we emphatically request that you obtain permission to enter into these areas.

BOEING

We trust this letter is fully responsive to your queries. We also look forward to receiving the report mentioned in your letter regarding EPA's April 2 and 3, 2002 activities, as soon as that report is available.

Please call me at (206) 655-5407 if you wish to discuss this matter further.

Sincerely,



Paul R. Carlson
Counsel

cc: Will Ernst
Skip Fox
Michael Gleason
Mark Schneider, Esq.
Steven Tochko